

House Bill 268

By: Representatives Harden of the 148th, England of the 116th, Jasperse of the 11th, Burns of the 159th, Williams of the 119th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated,
2 relating to dealers in agricultural products generally, so as to remove cotton and eggs from
3 the definition of "agricultural products"; to establish a fee for licensing of dealers in
4 agricultural products; to modify bond requirements for dealers in agricultural products; to
5 amend Article 2 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated, relating
6 to grain dealers, so as to expand the definition of "grain"; to modify bond requirements for
7 grain dealers; to amend Title 43 of the Official Code of Georgia Annotated, relating to
8 professions and businesses, so as to eliminate obsolete registration and licensing
9 requirements for pecan dealers and processors; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated, relating to
14 dealers in agricultural products generally, is amended by revising Code Section 2-9-1,
15 relating to definitions, as follows:

16 "2-9-1.

17 As used in this article, the term:

18 (1) 'Agricultural products' includes fruits, vegetables, ~~eggs, and~~ pecans, ~~and cotton~~ but
19 does not include dairy products, tobacco, grains, eggs, and other basic farm crops.

20 (2) 'Dealer in agricultural products' means any person, association, itinerant dealer,
21 partnership, or corporation engaged in the business of buying, receiving, selling,
22 exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any
23 agricultural products purchased from the producer or his or her agent or representative
24 or received on consignment from the producer or his or her agent or representative or
25 received to be handled on a net return basis from the producer. The term 'dealer in

agricultural products' also includes any person buying, selling, processing, or shelling pecan nuts, including any and every kind and variety of pecan nuts.

(3) 'Net return basis' means a purchase for sale of agricultural products from a producer or shipper at a price which is not fixed or stated at the time the agricultural products are shipped from the point of origin. The term includes all purchases made 'at the market price,' 'at net worth,' and on similar terms indicating that the buyer is the final arbiter of the price to be paid.

(4) 'On consignment' means any receiving or sale of agricultural products for the account of a person, other than the seller, wherein the seller acts as the agent for the owner.

(5) 'Producer' means any producer of agricultural products."

SECTION 2.

Said article is further amended by revising Code Section 2-9-4, relating to issuance of license, to read as follows:

"2-9-4.

Unless the Commissioner refuses the application on one or more of the grounds provided in Code Section 2-9-7, he or she shall issue to such applicant, upon the execution and delivery of a bond as provided in Code Section 2-9-5, a state license entitling the applicant to conduct business as a dealer in agricultural products. ~~No fee for such license shall be charged~~ An annual fee not to exceed \$400.00 shall be required before a license is issued. Such license shall be valid until revoked or suspended as provided in this article, or until the annual license renewal fee is unpaid."

SECTION 3.

Said article is further amended by revising Code Section 2-9-5, relating to bond requirements, to read as follows:

"2-9-5.

Before any license is issued the applicant shall make and deliver to the Commissioner a surety bond executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of 'good standing' issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within 30 days. The bond shall be ~~in such amount as the Commissioner may determine, not exceeding an amount~~ equal to the maximum amount of products purchased from or sold for Georgia producers or estimated to be purchased or sold in any month by the applicant; provided, however, that the minimum amount of such bond shall be \$10,000.00 and the

maximum amount of such bond shall be \$230,000.00; provided, further, that ~~or in the case of cotton pecans, such bond shall not to exceed \$150,000.00~~ \$500,000.00. Such bond shall be upon a form prescribed or approved by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to producers or their agents or representatives of the proceeds of all agricultural products handled or sold by such dealer. However, in lieu of a surety bond, the Commissioner may accept a cash bond, which shall in all respects be subject to the same claims and actions as would exist against a surety bond. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given, conforming with the requirements of this Code section. Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a dealer is canceled, the license of such person shall be immediately revoked by operation of law without notice or hearing and such person shall be ineligible to reapply for such license for a period of four years after such revocation."

SECTION 4.

Article 2 of Chapter 9 of Title 2 of the Official Code of Georgia Annotated, relating to grain dealers, is amended by revising Code Section 2-9-30, relating to definitions, to read as follows:

"2-9-30.

As used in this article, the term:

(1) 'Grain' means all products commonly classified as grain, including, but not limited to, wheat, corn, oats, barley, rye, field peas, soybeans, clover, and grain sorghum. The term does not include grain which has been produced or packaged for purchase or distribution as seed.

(2) 'Grain dealer' means any person, association, itinerant dealer, partnership, or corporation engaged in the business of buying, receiving, selling, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any grain purchased from the producer or his or her agent or representative, received on consignment from the producer or his or her agent or representative, or received to be handled on a net return basis from the producer.

(3) 'On consignment' means any receipt or sale of grain for the account of a person other than the seller in which the seller acts as the agent for the owner.

(4) 'Producer' means any producer of grain."

SECTION 5.

Said article is further amended by revising subsection (a) of Code Section 2-9-34, relating to bond requirements, to read as follows:

"2-9-34.

(a) Before any license is issued, the applicant shall make and deliver to the Commissioner a surety bond in the amount of 20 percent of the average of the highest dollar volume of grain purchases from producers made in any single month for each of the three preceding calendar years or such shorter period of years as the applicant has done business as a grain dealer, provided that the minimum amount of such bond shall be \$20,000.00 and the maximum amount of such bond shall be ~~\$150,000.00~~ \$300,000.00. If a licensed grain dealer operates his or her grain-dealing activities at more than one physical location, he or she shall furnish a surety bond for each location of grain-dealing activities, each bond to be computed as stated in this Code section and each bond to be subject to the minimum and maximum amounts stated in this Code section. The bonds shall be executed by a surety corporation authorized to transact business in this state and approved by the Commissioner. Any and all bond applications shall be accompanied by a certificate of 'good standing' issued by the Commissioner of Insurance. If any company issuing a bond shall be removed from doing business in this state, it shall be the duty of the Commissioner of Insurance to notify the Commissioner of Agriculture within 30 days. Such bonds shall be upon forms prescribed by the Commissioner and shall be conditioned to secure the faithful accounting for and payment to the producers or their agents or representatives of the proceeds of all grain handled or sold by such dealer. Whenever the Commissioner shall determine that a previously approved bond has for any cause become insufficient, the Commissioner may require an additional bond or bonds to be given, conforming with the requirements of this Code section. Unless the additional bond or bonds are given within the time fixed by written demand therefor, or if the bond of a dealer is canceled, the license of such person shall be immediately revoked by operation of law without notice or hearing."

SECTION 6.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by repealing Chapter 31, relating to pecan dealers and processors, and designating said chapter as reserved.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.